

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE COMMISSION ON ITS
9 OWN MOTION INVESTIGATING THE FAILURE
10 OF DESERT HILLS WATER COMPANY, INC. TO
11 COMPLY WITH COMMISSION RULES AND
12 REGULATIONS.

DOCKET NO. W-02124A-06-0379

PROCEDURAL ORDER

9 **BY THE COMMISSION:**

10 On June 6, 2006, the Arizona Corporation Commission ("Commission") Utilities Division
11 ("Staff") filed a Complaint and Petition for Order to Show Cause ("OSC") against Desert Hills Water
12 Company, Inc. ("DHW") stating that DHW violated numerous provisions of Arizona law,
13 Commission Rules and provisions of the Arizona Revised Statutes.

14 On June 19, 2006, the Commission issued an OSC in Decision No. 68780.

15 On June 22, 2006, the Staff filed a Request for Procedural Order and proposed dates for filing
16 testimony and hearing.

17 On June 26, 2006, counsel for DHW contacted the Hearing Division telephonically and stated
18 agreement with Staff's proposed procedural schedule, and a procedural order was issued adopting the
19 dates agreed upon by the parties, and setting the hearing for September 13, 2006. Subsequent to the
20 setting of the hearing, numerous customers contacted the Commission requesting the hearing be
21 conducted prior to September 13, 2006. By telephonic procedural conference held on July 7, 2006,
22 Staff and DHW agreed that the hearing could be moved to August 21, 2006.¹ Staff requested and
23 DHW agreed to a 5 day discovery turn around, and DHW confirmed that it would file its Answer no
24 later than Monday, July 10, 2006. Accordingly, the June 26, 2006 Procedural Order should be
25 modified to reflect the new hearing date and discovery timeframes.

26 On June 20, 2006, Abbyron Desert Hills, L.L.C. filed a Motion to Intervene ("Motion"). No

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28 ¹ Staff indicated that the August 21, 2006 hearing date was possible if all other procedural dates, including the time for
discovery responses, were timely met.

1 objection has been made to the Motion, and accordingly, the Motion should be granted.

2 IT IS THEREFORE ORDERED that a **hearing** shall commence on **August 21, 2006, at**
3 **10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington
4 Street, Phoenix, Arizona.

5 IT IS FURTHER ORDERED that **Staff shall file its testimony and associated exhibits** to be
6 presented at hearing on or before 4:00 p.m. on **July 26, 2006**.

7 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
8 105, except that all motions to intervene must be filed on or before **July 26, 2006**.

9 IT IS FURTHER ORDERED that any **testimony or exhibits to be presented by intervenors**
10 at the hearing should be pre-filed and filed with Docket Control on or before **August 8, 2006**.

11 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits on behalf**
12 **of Desert Hills Water Company** to be presented at hearing shall be reduced to writing and filed on
13 or before 4:00 p.m. on **August 16, 2006**.

14 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
15 regulations of the Commission, except that responses to discovery requests shall be made within 5
16 days of receipt.

17 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
18 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
19 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
20 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
21 that the party making such a request shall forthwith contact all other parties to advise them of the
22 hearing date and shall at the hearing provide a statement confirming that the other parties were
23 contacted.²

24 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
25 not ruled upon by the Commission within 15 days of the filing date of the motion shall be deemed
26 denied.

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28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of the filing date of the motion.

IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date of the response.

IT IS FURTHER ORDERED that Desert Hills Water Company shall provide public notice of the hearing in this matter, in the following form and style, with the heading in no less than 12 point bold type and the body in no less than 10 point regular type:

**CHANGE IN HEARING DATE ON THE ARIZONA CORPORATION COMMISSION'S
ORDER TO SHOW CAUSE CONCERNING DESERT HILLS WATER COMPANY, INC.**
(W-02124A-06-0379)

On June 6, 2006, the Utilities Division Staff of Arizona Corporation Commission ("Commission") filed a Complaint and Petition for Order to Show Cause against Desert Hills Water Company, Inc. ("Desert Hills") asserting that Desert Hills violated numerous provisions of Arizona Law, including Commission Rules, Orders and provisions of the Arizona Revised Statutes. On June 19, 2006, the Commission issued Decision No. 68780, ordering Desert Hills to answer and show cause why the Commission should not make findings against it.

The Order to Show Cause is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona and at the Applicant's office, [insert office address] and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

The Commission has moved the date for hearing to **August 21, 2006, at 10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. **Oral public comments will be taken on the first day of the hearing.** If you have any questions or concerns about this Order to Show Cause or **wish to make a statement concerning it, you may write the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, email bmorton@azcc.gov or call 1-800-222-7000 or appear at the hearing and make public comment.**

Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to the Company or its counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Company, a shareholder of the Company, etc.).

- 1 3. A statement certifying that a copy of the motion to intervene has been
2 mailed to the Company or its counsel and to all parties of record in the
3 case.

4 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
5 that **all motions to intervene must be filed on or before July 26, 2006.** The granting
6 of intervention, among other things, entitles a party to present sworn evidence at
7 hearing and to cross-examine other witnesses. **However, failure to intervene will not**
8 **preclude any customer from appearing at the hearing and making a statement on such**
9 **customer's own behalf.**

10 The Commission does not discriminate on the basis of disability in admission to its
11 public meetings. Persons with a disability may request a reasonable accommodation
12 such as a sign language interpreter, as well as request this document in an alternative
13 format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-
14 3931, E-mail lhogan@azcc.gov. Requests should be made as early as possible to
15 allow time to arrange the accommodation.

16 IT IS FURTHER ORDERED that Desert Hills Water Company shall cause the above notice
17 to be **published** at least once in a newspaper of general circulation in its service territory, with
18 publication to be completed no later than **July 17, 2006.**

19 IT IS FURTHER ORDERED that Desert Hills Water Company shall file **certification of**
20 **publication** as soon as practicable after the publication has been completed.

21 IT IS FURTHER ORDERED that notice shall be deemed complete upon publication of same,
22 notwithstanding the failure of an individual customer to read or receive the notice.

23 IT IS FURTHER ORDERED that the **Motion to Intervene by Abbyron Desert Hills,**
24 **L.L.C. is granted.**

25 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
26 Communications) applies to this proceeding and shall remain in effect until the Commission's
27 Decision in this matter is final and non-appealable.

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IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

Dated this 10th day of July, 2006



LYN FARMER
CHIEF ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 10th day of July, 2006 to:

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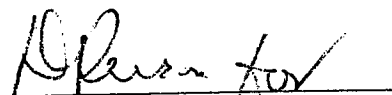
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By:


Molly Johnson
Secretary to Lyn Farmer